

JS 44C/SDNY  
REV. 12/2004

## JUDGE BATTS CIVIL COVER SHEET

05 CV 1964

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for use of the Clerk of Court for the purpose of initiating the civil docket sheet.

## PLAINTIFFS

Pfizer Inc

## DEFENDANTS

John Does 1-10, d/b/a CanadianPharmacy

ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)  
Wilmer Cutler Pickering Hale and Dorr LLP  
399 Park Avenue  
New York, NY 10022 (212-230-8800)

## ATTORNEYS (IF KNOWN)

## CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE)

Trademark infringement arising under 15 U.S.C. § 1114(1)  
Unfair competition arising under 15 U.S.C. § 1125(a)  
Trademark dilution arising under 15 U.S.C. § 1125(c)

Has this or a similar case been previously filed in SDNY at any time? No ☒ Yes? ☐ Judge Previously Assigned

If yes, was this case Vol ☐ Invol. ☐ Dismissed. No ☐ Yes ☐ If yes, give date \_\_\_\_\_ & Case No. \_\_\_\_\_

(PLACE AN [x] IN ONE BOX ONLY)

## NATURE OF SUIT

## ACTIONS UNDER STATUTES

TORTS		FORFEITURE/PENALTY		BANKRUPTCY		OTHER STATUTES	
<b>CONTRACT</b>	<b>PERSONAL INJURY</b>	<b>PERSONAL INJURY</b>	<input type="checkbox"/> 610 AGRICULTURE	<input type="checkbox"/> 422 APPEAL	<input type="checkbox"/> 400 STATE		
<input type="checkbox"/> 110 INSURANCE	<input type="checkbox"/> 310 AIRPLANE	<input type="checkbox"/> 362 PERSONAL INJURY -	<input type="checkbox"/> 620 FOOD & DRUG	28 USC 158	REAPPORTIONMENT		
<input type="checkbox"/> 120 MARINE	<input type="checkbox"/> 315 AIRPLANE PRODUCT	MED MALPRACTICE	<input type="checkbox"/> 625 DRUG RELATED	<input type="checkbox"/> 423 WITHDRAWAL	<input type="checkbox"/> 410 ANTITRUST		
<input type="checkbox"/> 130 MILLER ACT	LIABILITY	<input type="checkbox"/> 365 PERSONAL INJURY	SEIZURE OF	28 USC 157	<input type="checkbox"/> 430 BANKS & BANKING		
<input type="checkbox"/> 140 NEGOTIABLE	<input type="checkbox"/> 320 ASSAULT, LIBEL &	PRODUCT LIABILITY	PROPERTY		<input type="checkbox"/> 450 COMMERCE/ICC		
INSTRUMENT	SLANDER	<input type="checkbox"/> 368 ASBESTOS PERSONAL	21 USC 881	<b>PROPERTY RIGHTS</b>	RATES/ETC		
<input type="checkbox"/> 150 RECOVERY OF	<input type="checkbox"/> 330 FEDERAL	INJURY PRODUCT	<input type="checkbox"/> 630 LIQUOR LAWS	<input type="checkbox"/> 820 COPYRIGHTS	<input type="checkbox"/> 460 DEPORTATION		
OVERPAYMENT &	EMPLOYERS'	LIABILITY	<input type="checkbox"/> 640 RR & TRUCK	<input type="checkbox"/> 830 PATENT	<input type="checkbox"/> 470 RACKETEER INFLU-		
ENFORCEMENT OF	LIABILITY	<b>PERSONAL PROPERTY</b>	<input type="checkbox"/> 650 AIRLINE REGS	<input checked="" type="checkbox"/> 840 TRADEMARK	ENCED & CORRUPT		
JUDGMENT	<input type="checkbox"/> 340 MARINE		<input type="checkbox"/> 660 OCCUPATIONAL		ORGANIZATION ACT		
<input type="checkbox"/> 151 MEDICARE ACT	<input type="checkbox"/> 345 MARINE PRODUCT	<input type="checkbox"/> 370 OTHER FRAUD	SAFETY/HEALTH		(RICO)		
<input type="checkbox"/> 152 RECOVERY OF	LIABILITY	<input type="checkbox"/> 371 TRUTH IN LENDING	OTHER	<b>SOCIAL SECURITY</b>	<input type="checkbox"/> 480 CONSUMER CREDIT		
DEFAULTED	<input type="checkbox"/> 350 MOTOR VEHICLE	<input type="checkbox"/> 380 OTHER PERSONAL	<b>LABOR</b>	<input type="checkbox"/> 861 MIA (1395FF)	<input type="checkbox"/> 490 CABLE/SATELLITE TV		
STUDENT LOANS	<input type="checkbox"/> 355 MOTOR VEHICLE	PROPERTY DAMAGE	<input type="checkbox"/> 710 FAIR LABOR	<input type="checkbox"/> 862 BLACK LUNG (923)	<input type="checkbox"/> 810 SELECTIVE SERVICE		
(EXCL VETERANS)	PRODUCT LIABILITY	PROPERTY DAMAGE	STANDARDS ACT	<input type="checkbox"/> 863 DIWC (405(g))	<input type="checkbox"/> 850 SECURITIES/		
<input type="checkbox"/> 153 RECOVERY OF	<input type="checkbox"/> 360 OTHER PERSONAL	PRODUCT LIABILITY	LABOR/MGMT	<input type="checkbox"/> 863 DIWW (405(g))	COMMODITIES/		
OVERPAYMENT OF	INJURY		RELATIONS	<input type="checkbox"/> 864 SSID TITLE XVI	EXCHANGE		
VETERANS BENEFITS			LABOR/MGMT	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 875 CUSTOMER		
<input type="checkbox"/> 160 STOCKHOLDERS SUITS			REPORTING &		CHALLENGE		
<input type="checkbox"/> 190 OTHER CONTRACT			DISCLOSURE ACT	<b>FEDERAL TAX SUITS</b>	12 USC 3410		
<input type="checkbox"/> 195 CONTRACT PRODUCT			RAILWAY LABOR ACT	<input type="checkbox"/> 870 TAXES	<input type="checkbox"/> 891 AGRICULTURE ACTS		
LIABILITY			OTHER LABOR	<input type="checkbox"/> 871 IRS-THIRD PARTY	<input type="checkbox"/> 892 ECONOMIC		
<input type="checkbox"/> 196 FRANCHISE			LITIGATION	20 USC 7609	STABILIZATION ACT		
			<input type="checkbox"/> 791 EMPL RET INC		<input type="checkbox"/> 893 ENVIRONMENTAL		
			SECURITY ACT		MATTERS		
					<input type="checkbox"/> 894 ENERGY		
					ALLOCATION ACT		
					<input type="checkbox"/> 895 FREEDOM OF		
					INFORMATION ACT		
					<input type="checkbox"/> 900 APPEAL OF FEE		
					DETERMINATION		
					UNDER EQUAL ACCESS		
					TO JUSTICE		
					<input type="checkbox"/> 950 CONSTITUTIONALITY		
					OF STATE STATUTES		
					<input type="checkbox"/> 890 OTHER STATUTORY		
					ACTIONS		

Check if demanded in complaint:

CHECK IF THIS IS A CLASS ACTION  
UNDER F.R.C.P. 23

DO YOU CLAIM THIS CASE IS RELATED TO A CIVIL CASE NOW PENDING IN S.D.N.Y.?  
IF SO, STATE:

DEMAND \$ \_\_\_\_\_ OTHER \_\_\_\_\_ JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

Check YES only if demanded in complaint  
JURY DEMAND: ☐ YES ☒ NO

NOTE: Please submit at the time of filing an explanation of why cases are deemed related.

(SEE REVERSE)

(PLACE AN x IN ONE BOX ONLY)

## ORIGIN

- ☒ 1 Original Proceeding
 ☐ 2 Removed from State Court
 ☐ 3 Remanded from Appellate Court
 ☐ 4 Reinstated or Reopened
 ☐ 5 Transferred from (Specify District)
 ☐ 6 Multidistrict Litigation
 ☐ 7 Appeal to District Judge from Magistrate Judge Judgment

(PLACE AN x IN ONE BOX ONLY)

## BASIS OF JURISDICTION

IF DIVERSITY, INDICATE  
CITIZENSHIP BELOW.  
(28 USC 1332, 1441)

- ☐ 1 U.S. PLAINTIFF
 ☐ 2 U.S. DEFENDANT
 ☒ 3 FEDERAL QUESTION (U.S. NOT A PARTY)
 ☐ 4 DIVERSITY

## CITIZENSHIP OF PRINCIPAL PARTIES (FOR DIVERSITY CASES ONLY)

(Place an [X] in one box for Plaintiff and one box for Defendant)

CITIZEN OF THIS STATE	PTF DEF [ ] 1 [ ] 1	CITIZEN OR SUBJECT OF A FOREIGN COUNTRY	PTF DEF [ ] 3 [ ] 3	INCORPORATED and PRINCIPAL PLACE OF BUSINESS IN ANOTHER STATE	PTF DEF [ ] 5 [ ] 5
CITIZEN OF ANOTHER STATE	[ ] 2 [ ] 2	INCORPORATED or PRINCIPAL PLACE OF BUSINESS IN THIS STATE	[ ] 4 [ ] 4	FOREIGN NATION	[ ] 6 [ ] 6

## PLAINTIFF(S) ADDRESS(ES) AND COUNTY(IES)

Pfizer Inc  
 235 East 42nd Street  
 New York, NY 10017

## DEFENDANT(S) ADDRESS(ES) AND COUNTY(IES)

Unknown

## DEFENDANT(S) ADDRESS UNKNOWN

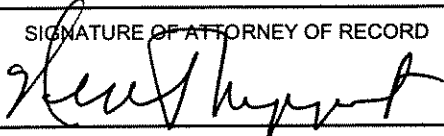
REPRESENTATION IS HEREBY MADE THAT, AT THIS TIME, I HAVE BEEN UNABLE, WITH REASONABLE DILIGENCE, TO ASCERTAIN THE RESIDENCE ADDRESSES OF THE FOLLOWING DEFENDANTS:

John Does 1-10, d/b/a CanadianPharmacy

Check one: THIS ACTION SHOULD BE ASSIGNED TO: ☐ WHITE PLAINS ☐ FOLEY SQUARE  
(DO NOT check either box if this a PRISONER PETITION.)

DATE  
02/09/05  
RECEIPT #

SIGNATURE OF ATTORNEY OF RECORD



ADMITTED TO PRACTICE IN THIS DISTRICT

☐ NO  
☒ YES (DATE ADMITTED Mo. 05 Yr. 1973)  
 Attorney Bar Code # 1339613

Magistrate Judge is to be designated by the Clerk of the Court.

Magistrate Judge \_\_\_\_\_ is so Designated.

J Michael McMahon, Clerk of Court by \_\_\_\_\_ Deputy Clerk, DATED \_\_\_\_\_.

UNITED STATES DISTRICT COURT (NEW YORK SOUTHERN)

OFFICE COPY

JUDGE BATTS  
IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

PFIZER INC, a Delaware Corporation,

Plaintiff,

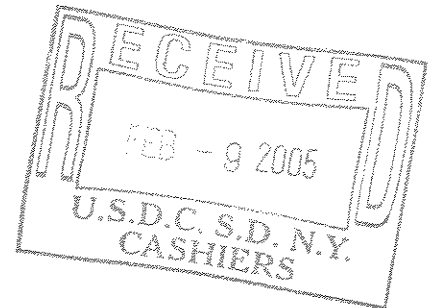
v.

JOHN DOES 1-10 d/b/a  
CANADIANPHARMACY,

Defendants.

05 CV 1964

COMPLAINT



PFIZER INC ("Pfizer") by its attorneys, for its Complaint against Defendants JOHN  
DOES 1-10 d/b/a CANADIANPHARMACY (collectively "Defendants"), alleges as follows:

**NATURE OF THE ACTION**

1. This is an action by Pfizer against Defendants for:
  - a) trademark infringement arising under 15 U.S.C. § 1114(1);
  - b) unfair competition arising under 15 U.S.C. § 1125(a);
  - c) trademark dilution arising under 15 U.S.C. § 1125(c);
  - d) trademark infringement and unfair competition in violation of New York common law;
  - e) injury to business reputation and dilution in violation of Section 360-1 of the New York General Business Law; and
  - f) deceptive trade practices in violation of Section 349 of the New York General Business Law.

### **THE PARTIES**

2. Pfizer Inc is a corporation organized and existing under the laws of the State of Delaware and has its principal place of business at 235 East 42<sup>nd</sup> Street, New York, New York 10017.

3. The true names and capacities of Defendants named herein as John Does 1 through 10 are unknown to Pfizer. Defendants operate an Internet pharmacy and are doing business as "CanadianPharmacy" located at "http://www.cndpharmacy.com." At the interactive <cndpharmacy.com> website, Defendants advertise, promote, offer for sale, sell and distribute an alleged sildenafil product as "VIAGRA" in United States commerce, including within this judicial district. The <cndpharmacy.com> website does not provide contact information for the Defendants. Upon information and belief, the Defendants submitted false contact information to the domain name Registrar when they registered the <cndpharmacy.com> website. Pfizer believes that information obtained in discovery will lead to the identification of each Defendant's true name and permit Pfizer to amend this Complaint to state the same.

### **JURISDICTION AND VENUE**

4. This Court has original jurisdiction under 15 U.S.C. § 1121 and 28 U.S.C. §§ 1331, 1338(a) and (b), and has supplemental jurisdiction under 28 U.S.C. § 1367(a).

5. This Court has personal jurisdiction over Defendants pursuant to CPLR 302(a) because they are transacting business and committing tortious acts within the State of New York and this judicial district.

6. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391.

## **PFIZER'S BUSINESS AND ITS FEDERALLY REGISTERED TRADEMARKS**

7. Pfizer is one of the world's leading health care companies that, among other things, discovers, develops and markets ethical drugs that are sold under Pfizer brand names. Pfizer has invested enormous sums of money in research and development to establish and bring to market a wide variety of innovative pharmaceutical products, and in the process has created a strong reputation for the high quality and effectiveness of its pharmaceuticals.

8. In one instance, Pfizer expended extensive resources on research and development of a new drug having the generic chemical name sildenafil citrate, the first approved oral medication for erectile dysfunction. Pfizer chose the brand name VIAGRA® for this medication. Erectile dysfunction is a serious medical condition estimated to affect more than 20 million men in the United States and over 100 million men worldwide. The availability of Pfizer's VIAGRA® brand sildenafil citrate, taken as a single tablet, represents a major medical breakthrough. This is evidenced by the Food and Drug Administration's ("FDA") expedited review and approval of this product in only six months.

9. The FDA approved Pfizer's VIAGRA® brand oral therapy for erectile dysfunction on March 27, 1998; and since shortly thereafter, Pfizer has marketed sildenafil citrate in the United States exclusively under its registered trademark VIAGRA®.

10. Even prior to FDA approval, Pfizer's VIAGRA® product received enormous media attention, including a cover story in Newsweek magazine and discussions on such popular television programs as "20/20" and "Today." The approval was highly publicized, including front-page coverage in the New York Times the following day, and feature articles in other major publications such as USA Today. Since then, VIAGRA® brand sildenafil citrate has been the subject of intense media attention, public scrutiny and commentary. By virtue of this extensive publicity, and Pfizer's own post-approval advertising, promotion and consumer

education, Pfizer's VIAGRA® trademark became famous almost immediately after FDA approval in the spring of 1998.

11. Pfizer is the owner of United States Trademark Registration No. 2,162,548 for the trademark VIAGRA® covering a "compound for treating erectile dysfunction" claiming first use in commerce on April 6, 1998. The United States Patent and Trademark Office ("PTO") issued the VIAGRA registration on June 2, 1998. This federal trademark registration is valid, unrevoked, uncanceled and incontestable. A copy of Pfizer's VIAGRA® trademark registration is attached hereto as Exhibit A.

12. Pfizer's VIAGRA® trademark is a fanciful term having no denotative meaning. The mark is inherently distinctive both to the trade and the consuming public.

13. Pfizer's VIAGRA® trademark is universally recognized and relied upon as identifying Pfizer as the sole source of the drug, and as distinguishing Pfizer's product from the goods and services of others. As a result, the VIAGRA® trademark has acquired substantial goodwill and is an extremely valuable commercial asset.

14. Pfizer's VIAGRA® trademark is a famous and arbitrary mark which qualifies for the broadest scope of protection from infringement and unauthorized use available under law.

15. In addition to the VIAGRA® trademark, Pfizer owns United States Trademark Registration No. 2,593,407, for its blue, diamond-shaped tablet configuration covering a "pharmaceutical preparation for the treatment of sexual dysfunction" (hereinafter the "blue, diamond-shaped tablet trademark"). This registration, which was issued by the PTO on July 16, 2002, is valid, unrevoked and uncanceled. A copy of Pfizer's blue, diamond-shaped tablet trademark registration is attached hereto as Exhibit B.



16. Pfizer's blue, diamond-shaped tablet trademark has been in use since April 6, 1998, and has become a highly distinctive identifier of Pfizer's VIAGRA® brand sildenafil citrate product.

#### **DEFENDANTS' UNLAWFUL CONDUCT**

17. Defendants operate an online pharmacy under the name "CanadianPharmacy" via an interactive website located at <cndpharmacy.com>. Upon information and belief, Defendants used fictitious business and personal names and addresses to register the <cndpharmacy.com> domain name and operate the CanadianPharmacy Internet pharmacy. For example, upon information and belief, Defendants represented to the directNIC Registrar that the Registrant is "CND Meds" and provided 321 W. 55<sup>th</sup> Street, New York, NY 10019, (647) 210-6337 as the address and telephone number. Upon information and belief, there is no entity named "CND Meds" located at this New York address or through this telephone number. Upon information and belief, Defendants also listed "Jeff Smart" as the administrative and technical contact with the same New York City address as "CND Meds". Upon information and belief, this identity is fictitious and was acquired by identity theft. Upon information and belief, the New York City contact address and telephone number for "Jeff Smart" provided to the directNIC.com Registrar are invalid.

18. Upon information and belief, Defendants are sophisticated, large scale spammers who use Pfizer's VIAGRA® trademark in their spam to solicit consumers to visit the <cndpharmacy.com> website. Upon information and belief, Defendants' "spam" contains falsified information and is routed through open proxies and hijacked computers around the world.

19. On and through the <cndpharmacy.com> website and spam, Defendants use Pfizer's federally registered VIAGRA® trademark to offer for sale, advertise, promote and sell

an alleged sildenafil citrate product. On the <endpharmacy.com> website and spam, Defendants also use Pfizer's blue, diamond-shaped tablet trademark, without Pfizer's consent, to promote and advertise Defendants' alleged sildenafil citrate product. A copy of pages from Defendants' <endpharmacy.com> website, printed on February 8, 2005, is attached hereto as Exhibit C.

20. On the <endpharmacy.com> website, Defendants claim that their purported "VIAGRA" product is "a phosphodiesterase inhibitor used to treat sexual function problems such as impotence or erectile dysfunction." Defendants feature their alleged "VIAGRA" product on the <endpharmacy.com> homepage, noting it as one of the online pharmacy's six "most popular products." Upon information and belief, the product sold by Defendants under the federally registered VIAGRA® trademark is not Pfizer's genuine VIAGRA® brand sildenafil citrate. Defendants' use of the VIAGRA® mark and the blue, diamond-shaped tablet trademark in connection with a product that is not Pfizer's genuine VIAGRA® brand sildenafil citrate is unauthorized.

21. Defendants' interactive website lists three different quantities of the purported VIAGRA product that are available for sale, ranging from 20 to 90 tablets and ranging in price from \$159.00 to \$389.00. After an online consumer orders the product by clicking "BUY NOW" and filling out an online form, the purported "VIAGRA" product is shipped directly to the consumer, including consumers in this judicial district. Upon information and belief, nothing on the <endpharmacy.com> website indicates to the consumer that he or she is not ordering Pfizer's genuine VIAGRA® brand sildenafil citrate. Upon information and belief, Defendants fill online orders with pills that are manufactured by third parties not affiliated with Pfizer.

22. Upon information and belief, Defendants' purported sildenafil citrate product has not been approved by the FDA for sale in the United States, has not been approved by the FDA as "bioequivalent" to Pfizer's VIAGRA® brand sildenafil citrate product, and the manufacturing



facilities that produce Defendants' product have not been approved by the FDA for the manufacture of any purported sildenafil citrate product.

23. Defendants' sale and import into the United States of the purported sildenafil citrate product is in violation of United States law including, but not limited to, the Federal Food, Drug and Cosmetic Act, 21 U.S.C. § 301 et. seq., 21 U.S.C. § 381(d)(i) [importation into the United States by anyone other than the manufacturer], 21 U.S.C. § 355 [unapproved drug], 21 U.S.C. § 352 [improper or unapproved labeling], and/or 21 U.S.C. § 353(b)(1) [dispensed without a valid prescription].

24. Furthermore, upon information and belief, the purported sildenafil citrate product sold by Defendants is not manufactured in the United States but imported from a country or countries in contravention to the General Exclusion Order entered on February 6, 2004, by the United States International Trade Commission, In the Matter of Certain Sildenafil or Any Pharmaceutically Acceptable Salt Thereof, such as Sildenafil Citrate, and Products Containing Same, Inv. No. 337-TA-489.

25. Defendants' use of the "VIAGRA" trademark and blue, diamond-shaped tablet trademark as described herein is unauthorized. Defendants intentionally use Pfizer's registered trademarks to compete directly and unfairly with the products and services offered under Pfizer's federally registered marks. Defendants' actions dilute the distinctive quality of the famous VIAGRA® trademark, injure Pfizer's reputation as the source of high quality pharmaceutical products, and is a willful and deliberate attempt to trade unlawfully upon the goodwill associated with the VIAGRA® mark and blue, diamond-shaped tablet trademark.

**FIRST CLAIM FOR RELIEF  
TRADEMARK INFRINGEMENT**

26. Pfizer repeats the allegations of paragraphs 1 through 25 of its Complaint.

27. Defendants' unauthorized use in commerce of the VIAGRA® trademark in connection with the advertising, sale, offering for sale, and distribution of a purported sildenafil citrate product, is likely to cause consumer confusion as to the source, sponsorship or affiliation of its products with Pfizer.

28. The aforesaid activities of Defendants constitute trademark infringement in violation of Section 32(1) of the Lanham Act, 15 U.S.C. § 1114(1).

29. The acts of Defendants have been intentional, willful and in bad faith.

30. The acts of Defendants have caused and are causing great and irreparable harm and damage to Pfizer, and unless permanently restrained and enjoined by this Court, such irreparable harm will continue.

31. Pfizer is entitled to recover as damages Defendants' profits from their sale of their purported "VIAGRA" product.

**SECOND CLAIM FOR RELIEF  
FEDERAL UNFAIR COMPETITION**

32. Pfizer repeats the allegations of paragraphs 1 through 25 of its Complaint.

33. Defendants are using in commerce the VIAGRA® trademark and the blue, diamond-shaped tablet trademark in connection with the advertising, sale, offering for sale and distribution of a purported sildenafil citrate product.

34. These aforesaid activities constitute the use of words, terms, names, symbols and devices and combinations thereof, false designations of origin and false and misleading representations of fact that are likely to cause confusion or to cause mistake or to deceive as to

the affiliation, connection or association of Defendants with Pfizer, or as to the origin, sponsorship or approval of Defendants' goods, services or other commercial activities by Pfizer.

35. Upon information and belief, Defendants had actual knowledge of Pfizer's ownership of the VIAGRA® trademark and the blue, diamond-shaped tablet trademark and Defendants are committing the foregoing acts with full knowledge that they are infringing upon Pfizer's rights.

36. Defendants' activities as set forth above constitute violations of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

37. Defendants have acted willfully, intentionally and in bad faith.

38. The acts of Defendants have caused and are causing great and irreparable harm and damage to Pfizer, and unless permanently restrained and enjoined by this Court, such irreparable harm will continue.

39. Pfizer is entitled to recover as damages Defendants' profits from their sale of their purported "VIAGRA" product.

### **THIRD CLAIM FOR RELIEF FEDERAL DILUTION**

40. Pfizer repeats the allegations of paragraphs 1 through 25 of its Complaint.

41. Pfizer's VIAGRA® trademark is famous and distinctive.

42. Defendants' use in commerce of the VIAGRA® trademark is without the permission, consent or authorization of Pfizer and is likely to dilute by blurring the reputation of Pfizer's unique, distinctive and famous trademark, thereby diminishing its value.

43. Defendants commenced the use of the VIAGRA trademark after Pfizer's VIAGRA® mark became famous.

44. Upon information and belief, Defendants' adoption and use of the VIAGRA® trademark was undertaken in bad faith and in disregard of the resultant damage and injury to Pfizer and its VIAGRA® trademark.

45. The acts of Defendants constitute dilution of the distinctive quality of the famous VIAGRA® trademark in violation of Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).

46. The acts of Defendants have been intentional, willful and committed in bad faith.

47. The acts of Defendants have caused and are causing great and irreparable harm and damage to Pfizer and, unless preliminarily and permanently restrained and enjoined by this Court, such irreparable harm will continue.

**FOURTH CLAIM FOR RELIEF  
COMMON LAW TRADEMARK INFRINGEMENT**

48. Pfizer repeats the allegations of paragraphs 1 through 25 of its Complaint.

49. The acts of Defendants constitute trademark infringement in violation of New York common law.

50. The acts of Defendants have caused and are continuing to cause great and irreparable harm to Pfizer and, unless permanently restrained and enjoined by this Court, such irreparable harm will continue.

**FIFTH CLAIM FOR RELIEF  
COMMON LAW UNFAIR COMPETITION**

51. Pfizer repeats the allegations of paragraphs 1 through 25 of its Complaint.

52. The acts of Defendants constitute unfair competition in violation of New York common law.

53. The acts of Defendants have caused and are continuing to cause great and irreparable harm to Pfizer and, unless permanently restrained and enjoined by this Court, such irreparable harm will continue.

**SIXTH CLAIM FOR RELIEF  
INJURY TO BUSINESS REPUTATION AND  
DILUTION UNDER NEW YORK LAW**

54. Pfizer repeats the allegations of paragraphs 1 through 25 of its Complaint.

55. Defendants' aforesaid acts constitute injury to business reputation and dilution of the quality of Pfizer's distinctive VIAGRA® mark in violation of Section 360-1 of the New York General Business Law.

56. Upon information and belief, Defendants' adoption and use of the VIAGRA® mark is intended to appropriate and trade upon the goodwill and reputation associated with Pfizer's famous VIAGRA® trademark, and was undertaken in bad faith and in disregard of the resultant damage and injury to Pfizer and its trademark.

57. Defendants' aforesaid acts have caused and are causing great and irreparable harm and damage to Pfizer, and unless preliminarily and permanently restrained by this Court, said irreparable injury will continue.

**SEVENTH CLAIM FOR RELIEF  
DECEPTIVE TRADE PRACTICES UNDER NEW YORK LAW**

58. Pfizer hereby repeats the allegations of paragraphs 1 through 25 of its Complaint.

59. Defendants' aforesaid acts constitute deceptive trade practices in violation of Section 349 of the New York General Business Law.

60. Defendants' aforesaid acts were committed willfully.

61. Defendants' aforesaid acts have caused and are causing great and irreparable harm and damage to Pfizer, and unless preliminarily and permanently restrained by this Court, said irreparable injury will continue.

**PRAYER FOR RELIEF**

WHEREFORE, Pfizer respectfully requests judgment against Defendants as follows:

A. Preliminarily and permanently enjoining and restraining Defendants and their respective partners, agents, servants, employees and attorneys, and those persons in active concert or participation with Defendants from:

1. Using the designation VIAGRA®, or any other mark, term or title confusingly similar to the VIAGRA® trademark, in connection with the marketing, sale, offering for sale, advertisement or promotion (including on the Internet) of pharmaceutical, medical, or healthcare products;

2. Using the blue, diamond-shaped tablet trademark, or any other mark, term or design confusingly similar to the blue, diamond-shaped tablet trademark, in connection with the marketing, sale, offering for sale, advertisement, or promotion (including on the Internet) of pharmaceutical, medical, or healthcare products;

3. Representing by any means whatsoever, directly or indirectly, or doing any other acts or things calculated or likely to cause confusion, mistake or to deceive purchasers into believing that Defendants' products originate with or are the products of Pfizer or that there is any affiliation or connection between Pfizer and its products and Defendants or their products, and from otherwise competing unfairly with Pfizer;

4. Falsely claiming or otherwise implying any product they sell is the same as, equivalent to, as effective as, a substitute for, or a replacement for VIAGRA® brand sildenafil citrate;

5. Using any mark in a manner so as to cause the dilution of the distinctive quality of Pfizer's VIAGRA® trademark; and

6. Registering or using any Internet domain name that uses the



VIAGRA® mark, or any colorable imitation thereof.

B. Directing that Defendants, at their own expense, recall all products and marketing, promotional and advertising materials and deactivate any websites that bear or incorporate the VIAGRA® mark, the blue, diamond-shaped tablet registration, or any mark confusingly similar to Pfizer's trademarks, which have been manufactured, distributed, sold or shipped by them, and to reimburse all customers from which said materials are recalled.

C. Directing that Defendants deliver to Pfizer's attorneys or representatives for destruction all products, labels, signs, prints, packages, molds, plates, dies, wrappers, receptacles and advertisements in their possession or under their control, bearing the VIAGRA® mark, the blue, diamond-shaped tablet trademark, or any simulation, reproduction, copy or colorable imitation of Pfizer's trademarks, and all plates, molds, matrices and any other means of making the same.

D. Directing such other relief as the Court may deem appropriate to prevent the trade and public from forming any erroneous impression that any product manufactured, sold or otherwise distributed or promoted by Defendants is authorized by Pfizer or related in any way to Pfizer's products.

E. Directing Defendants to file with this Court and to serve upon Pfizer within thirty (30) days after service upon Defendants of an injunction in this action, a written report by Defendants, under oath, setting forth in detail the manner in which Defendants have complied with the injunction.

F. Awarding Pfizer as damages Defendants' profits from their sale of the purported sildenafil citrate product.

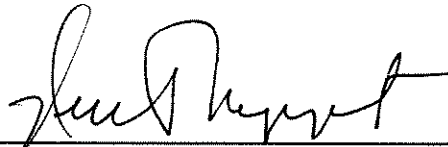
G. Awarding Pfizer all damages permitted by 15 U.S.C. § 1117(a), trebled.

- H. Awarding Pfizer all damages permitted by 15 U.S.C. § 1117(d).
- I. Awarding Pfizer damages by reason of Defendants' acts of common law trademark infringement in an amount to be established at trial.
- J. Awarding Pfizer punitive damages by reason of Defendants' willful, intentional and malicious acts of common law trademark infringement and unfair competition, in an amount to be established at trial.
- K. Awarding Pfizer reasonable attorneys' fees pursuant to 15 U.S.C. § 1117(a), and the costs of this action.
- L. Awarding Pfizer such further relief as this Court deems just and proper.

Dated: New York, New York  
February 9, 2005

Respectfully submitted,

WILMER CUTLER PICKERING  
HALE and DORR LLP



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Attorneys for Plaintiff Pfizer Inc

A

The United States of America



CERTIFICATE OF REGISTRATION  
PRINCIPAL REGISTER

*The Mark shown in this certificate has been registered in the United States Patent and Trademark Office to the named registrant.*

*The records of the United States Patent and Trademark Office show that an application for registration of the Mark shown in this Certificate was filed in the Office, that the application was examined and determined to be in compliance with the requirements of the law and with the regulations prescribed by the Commissioner of Patents and Trademarks, and that the Applicant is entitled to registration of the Mark under the Trademark Act of 1946, as Amended.*

*A copy of the Mark and pertinent data from the application are a part of this certificate.*

*This registration shall remain in force for TEN (10) years, unless terminated earlier as provided by law, and subject to compliance with the provisions of Section 8 of the Trademark Act of 1946, as Amended.*



*Bruce Lehman*

Commissioner of Patents and Trademarks

**Int. Cl.: 5**

**Prior U.S. Cls.: 6, 18, 44, 46, 51, and 52**

**Reg. No. 2,162,548**

**United States Patent and Trademark Office**

**Registered June 2, 1998**

**TRADEMARK  
PRINCIPAL REGISTER**

**VIAGRA**

**PFIZER INC. (DELAWARE CORPORATION)  
235 EAST 42ND STREET  
NEW YORK, NY 10017**

**FIRST USE 4-6-1998; IN COMMERCE  
4-6-1998.**

**FOR: COMPOUND FOR TREATING ERECTILE  
DYSFUNCTION, IN CLASS 5 (U.S. CLS. 6,  
18, 44, 46, 51 AND 52).**

**SN 75-089,201, FILED 4-12-1996.**

**BALDEV SARAI, EXAMINING ATTORNEY**

**B**



877414



# THE UNITED STATES OF AMERICA

**TO ALL TO WHOM THESE PRESENTS SHALL COME:**

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office

August 05, 2002

THE ATTACHED U.S. TRADEMARK REGISTRATION 2,593,407 IS  
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REGISTERED FOR A TERM OF 10 YEARS FROM *July 16, 2002*  
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COMMISSIONER OF PATENTS AND TRADEMARKS

*E. Bornett*  
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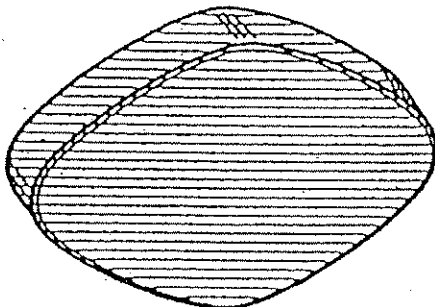
U.S. Cls.: 6, 18, 44, 46, 51 and 52

United States Patent and Trademark Office

Reg. No. 2,593,407

Registered July 16, 2002

TRADEMARK  
PRINCIPAL REGISTER



PFIZER INC. (DELAWARE CORPORATION)  
235 EAST 42ND STREET  
NEW YORK, NY 10017

FOR: PHARMACEUTICAL PREPARATION FOR  
THE TREATMENT OF SEXUAL DYSFUNCTION, IN  
CLASS 5 (U.S. CLS. 6, 18, 44, 46, 51 AND 52).

FIRST USE 4-6-1998; IN COMMERCE 4-6-1998.

THE DRAWING IS LINED FOR THE COLOR  
BLUE.

THE MARK CONSISTS IN PART OF THE CON-  
FIGURATION OF THE GOODS CONSISTING OF A  
DIAMOND-SHAPED DOSAGE TABLET, COM-  
BINED WITH THE COLOR BLUE AS APPLIED TO  
THE ENTIRE SURFACE OF THE GOODS.

SEC. 2(F).

SER. NO. 75-726,287, FILED 6-10-1999.

JENNIFER CHICOSKI, EXAMINING ATTORNEY

C

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ALL MEDICATION

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**Antibiotic**

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\* Paxil  
\* Prozac  
\* Zoloft

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\* Imitrex

**Herpes**

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- Cialis
- Viagra

**Sleep Aid**

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**Smoking**

- Zyban

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- Meridia



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[Home](#) | [Contact us](#) | [Resources](#)**ALL MEDICATION****ABOUT US****TESTIMONIALS****FAQ'S****Antibiotic**

\* Cipro

**Viagra** - Treats erection difficulties.[Uses](#) | [Instructions](#) | [Side Effects](#) | [Precautions](#) | [Interactions](#) | [Missed Dosage](#) | [Storage](#)**Anti Depressant**

\* Celexa

\* Effexor

\* Paxil

\* Prozac

\* Zoloft

Medication	Qt.	Reg. Price	Our Price	You Save	Shipping
Viagra 100mg.	20 C	\$ 275.00	\$ 159.00	\$ 116.00	\$ 20.00
Viagra 100mg.	40 C	\$ 437.00	\$ 239.00	\$ 198.00	\$ 20.00
Viagra 100mg.	90 C	\$ 1027.00	\$ 389.00	\$ 638.00	Free

**BUY NOW****BUY NOW****BUY NOW****Anxiety**

\* Buspar

\* Valium

\* Xanax

**Uses****Blood Pressure**

\* Altace

\* Avapro

\* Cozaar

\* Norvasc

Viagra (generic name Sildenafil Citrate) is a phosphodiesterase inhibitor used to treat sexual function problems such as impotence or erectile dysfunction. In combination with sexual stimulation, this medicine works by helping the blood flow into the penis to achieve and maintain an erection. This medicine is not intended for use in women or children.

**Bone and Joint**

\* Fosamax

**How to Take this Medication****Cholesterol**

\* Lipitor

Take Viagra by mouth as needed between four hours and one-half hour before sexual activity (about 1 hour before is most effective); or take as directed by your doctor. Do not take Viagra more often than once daily as needed. A high fat meal may delay the time of onset of this medicine. Avoid eating grapefruit or drinking grapefruit juice while being treated with this medicine unless your doctor instructs you otherwise.

**Diabetes**

\* Glucophage

**Headache**

\* Imitrex

**Side Effects****Herpes**

\* Neurontin

Side effects that may occur while taking this medicine include headache, flushing, stomach upset, heartburn, nasal stuffiness, diarrhea, dizziness, or lightheadedness. Vision changes such as increased sensitivity to light, blurred vision, or impaired blue/green color discrimination may also occur. If these continue or are bothersome, check with your doctor or pharmacist. Sexual activity may put extra strain on your heart, especially if you have heart problems. If you have heart problems and experience any serious side effects while having sex, stop having sex and tell your doctor immediately.

**Men's Health**

\* Propecia

**Muscle Relaxant**

\* Soma

**Pain Relief**

\* Bextra

\* Celebrex

**Precautions**



**Sexual Health**

- Cialis
- Viagra

Do not take Viagra if you have had an allergic reaction to it in the past or to any other ingredient that is found in it. Viagra may cause dizziness or vision changes. Do not drive, operate machinery, or do anything else that could be dangerous until you know how you react to this medicine.

**Sleep Aid**

- Ambien

**Drug Interactions****Smoking**

- Zyban

Do not take Viagra if you are also taking or using nitroglycerin, (e.g., tablet, patch, or ointment dose forms) or other nitrates (e.g., isosorbide), nitroprusside (or any "nitric oxide donor" medicine), or recreational drugs called "poppers" containing amyl or butyl nitrate because very serious interactions may occur. Additional monitoring of your dose or condition may be needed if you are taking other medicines for impotence, azole antifungals (e.g., itraconazole, ketoconazole), cimetidine, erythromycin, mibefradil, rifamycins (e.g., rifampin), high blood pressure medicines, or delavirdine. If you are taking an HIV protease inhibitor (e.g., ritonavir, saquinavir), do not take more than a 25 mg dose of sildenafil in a 48-hour period.

**Upset Stomach**

- Nexium
- Prevacid

**Weight Loss**

- Meridia

**Storage**

Keep Viagra away from children. Store Viagra at room temperature, 77 degrees F (25 degrees C) in a tightly-closed container, keep it away from heat, moisture, and light. Brief storage between 59 and 86 degrees F (15 and 30 degrees C) is permitted.

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**Sexual Health**

- Cialis
- Viagra

click here and one of our friendly customer service agents will call you to answer your questions and concerns. If you'd like to educate yourself on the kinds of medications available, browse through our site or have a look at our Resources section to learn more in specific fields of interest.

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- Ambien

*"I am feeling great and losing inches thanks to meridia - and I can't believe how much this is saving me compared to what I spent when I bought my first bottle retail. Thanks"*

**Walter G., v Baron, Wi**

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- Zyban

**Upset Stomach**

- Nexium
- Prevacid

**Most Popular Products****Weight Loss**

- Meridia



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**Mira K. Anaheim, Ca**

*"Meridia has helped me get down to my target weight better than anything else. All I needed was something cheaper than I was paying..."*

**Debra W. New Jersey**

*"I have used Meridia now for three weeks and the weight is coming off"*

**Brenda V. Orlando, Fl**

*"I am feeling great and losing inches thanks to meridia - and I can't believe how much this is saving me compared to what I spent when I bought my first bottle retail. Thanks"*

**Walter G.,v Baron, Wi**

*"Thanks for the fast delivery of my Viagra order."*

**K.G. Dayton, Ohio**

*"I already knew I needed Viagra, I had used it a couple of times and loved it. But it was a financial drain. I'm so glad to have found a way around the ridiculous pricing of large pharmaceutical companies through the Internet"*

**E.W. Southbend**

*"Professional and discreet. Good job"*

**E.R. Arlington**

*"I feel 20 years younger - I no longer have any problems with ED and feel like I took back control of my life. Thanks for helping me make this decision, I'm so happy I did."*

**C.B. Greendale, Florida**



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- Viagra

**Sleep Aid**

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